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ORACLE AMERICA, INC.

20 UNITED STATES DISTRICT COURT  
21 NORTHERN DISTRICT OF CALIFORNIA  
22 SAN FRANCISCO DIVISION

23 ORACLE AMERICA, INC.

CASE NO. CV 10-03561 WHA

24 Plaintiff,  
25 v.

[PROPOSED] ORDER GRANTING  
ORACLE AMERICA'S MOTION FOR  
ADMINISTRATIVE RELIEF TO  
DEEM FACTS ADMITTED BY  
GOOGLE

26 GOOGLE INC.

Judge: Honorable William H. Alsup

27 Defendant.

1           The Court has read and considered Oracle's Motion for Administrative Relief to Deem  
2 Facts Admitted by Google. Based on the arguments presented in the motion, the pleadings on  
3 file, and any other relevant matter, the following facts shall be deemed admitted for purposes of  
4 the upcoming trial:

5           1. Google has admitted that the 37 Java APIs meet the threshold for originality required  
6 by the Constitution.

7           2. Google has admitted that the Java programming language is distinct from the Java  
8 APIs and class libraries.

9           3. Google has admitted that the only way to demonstrate compatibility with the Java  
10 specification is by meeting all of the requirements of Sun's Technology Compatibility  
11 Kit ("TCK") for a particular edition of Sun's Java.

12           4. Google has admitted: TCKs were only available from Sun, initially not available as  
13 open source, were provided solely at Sun's discretion, and included several  
14 restrictions, such as additional licensing terms and fees. In essence, although  
15 developers were free to develop a competing Java virtual machine, they could not  
16 openly obtain an important component needed to freely benefit from Sun's purported  
17 open-sourcing of Java.

18           5. Google has admitted: Although Sun offered to open source the TCK for Java SE, Sun  
19 included field of use ("FOU") restrictions that limited the circumstances under which  
20 Apache Harmony users could use the software that the Apache Software Foundation  
21 created. Sun refused the ASF's request for a TCK license without FOU restrictions.

22           IT IS SO ORDERED.

23           Date: \_\_\_\_\_

24           \_\_\_\_\_  
25           Honorable William H. Alsup  
26           Judge of the United States District Court  
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